

HOUSE BILL NO. 303

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTY-SECOND LEGISLATURE - SECOND SESSION

BY THE HOUSE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

Introduced: 2/4/22

Referred: Community and Regional Affairs, Resources, Finance

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to commercial passenger vessel environmental compliance; relating to
2 commercial passenger vessel fees; establishing the wastewater infrastructure grant fund;
3 repealing the authority for citizens' suits relating to commercial passenger vessel
4 environmental compliance; repealing the commercial passenger vessel recognition
5 program; and providing for an effective date."

6 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

7 * **Section 1.** AS 46.03.460(a) is amended to read:

8 (a) **The department shall regulate** [THERE IS ESTABLISHED THE]
9 commercial passenger vessel **discharges and** environmental compliance **by**
10 [PROGRAM PROVIDING FOR]

11 (1) **adopting regulations to carry out the purposes of AS 46.03.460**
12 **- 46.03.490, including regulations that establish** terms and conditions of vessel
13 discharges;

1 (2) **verifying** [INDEPENDENT VERIFICATION OF] environmental
 2 compliance; and

3 (3) **monitoring and supervising** [ALLOWING THE DEPARTMENT
 4 TO MONITOR AND SUPERVISE DISCHARGES FROM] commercial passenger
 5 vessels through a registration system.

6 * **Sec. 2.** AS 46.03.463 is repealed and reenacted to read:

7 **Sec. 46.03.463. Prohibited discharges.** (a) Except as provided in (b) of this
 8 section, or under the terms of prior authorization from the department under
 9 AS 46.03.100, a person may not discharge wastewater from a commercial passenger
 10 vessel into the marine waters of the state.

11 (b) This section does not apply to discharges from a commercial passenger
 12 vessel made to secure the safety of the commercial passenger vessel or to save life at
 13 sea, if all reasonable precautions have been taken to prevent or minimize the
 14 discharge.

15 * **Sec. 3.** AS 46.03.465(a) is amended to read:

16 (a) The owner or operator of a commercial passenger vessel shall maintain
 17 daily records related to the period of operation while in the state, detailing the dates,
 18 times, and locations, and the volumes and flow rates of any discharges of **wastewater**
 19 [SEWAGE, GRAYWATER, OR OTHER WASTEWATERS] into the marine waters
 20 of the state, and provide electronic copies of those records [ON A MONTHLY
 21 BASIS] to the department **in a format and at times prescribed by the department**
 22 [NOT LATER THAN FIVE DAYS AFTER EACH CALENDAR MONTH OF
 23 OPERATION IN STATE WATERS].

24 * **Sec. 4.** AS 46.03.465(b) is amended to read:

25 (b) While a commercial passenger vessel is present in the marine waters of the
 26 state, the owner or operator of the vessel shall provide an hourly report of the vessel's
 27 location based on Global Positioning System technology and, **if authorized to**
 28 **discharge under AS 46.03.100, shall routinely** collect [ROUTINE] samples of
 29 **wastewater** [THE VESSEL'S TREATED SEWAGE, GRAYWATER, AND OTHER
 30 WASTEWATERS] being discharged into marine waters of the state with a sampling
 31 technique approved by the department.

1 * **Sec. 5.** AS 46.03.465(c) is amended to read:

2 (c) While a commercial passenger vessel is present in the marine waters of the
3 state, **including while underway, the owner or operator shall allow** the department,
4 or an independent contractor retained by the department, **to board and**

5 **(1) inspect systems that collect, treat, or dispose of wastewater;**

6 **(2)** [MAY] collect [ADDITIONAL] samples of **wastewater** [THE
7 VESSEL'S TREATED SEWAGE, GRAYWATER, AND OTHER
8 WASTEWATERS] being discharged into the marine waters of the state; **and**

9 **(3) inspect systems that affect air emissions under AS 46.14.**

10 * **Sec. 6.** AS 46.03.465(d) is amended to read:

11 (d) The owner or operator of a vessel required to collect samples under (b) of
12 this section shall ensure that all sampling techniques and frequency of sampling events
13 are approved by the department in a manner sufficient to **determine** [ENSURE
14 DEMONSTRATION OF] compliance with all discharge requirements under
15 **AS 46.03.460 - 46.03.490** [AS 46.03.462].

16 * **Sec. 7.** AS 46.03.465(f) is amended to read:

17 (f) If the owner or operator of a commercial passenger vessel has, when
18 complying with another state or federal law that requires [SUBSTANTIALLY
19 EQUIVALENT] information gathering, gathered **information that is substantially**
20 **equivalent to** the information required under (a), (b), or (d) of this section, the owner
21 or operator shall be considered to be in compliance with that subsection so long as the
22 information is also provided to the department **in a format prescribed by the**
23 **department.**

24 * **Sec. 8.** AS 46.03.465(h) is amended to read:

25 (h) **At the department's** [ON] request, the owner or operator of a commercial
26 passenger vessel discharging wastewater [UNDER AS 46.03.462(b)] shall provide the
27 department with information relating to wastewater treatment, pollution avoidance,
28 and pollution reduction measures used on the vessel, including testing and evaluation
29 procedures and economic and technical feasibility analyses.

30 * **Sec. 9.** AS 46.03.480(a) is amended to read:

31 (a) **Except as provided in (c) of this section, each commercial passenger**

vessel is subject to [THERE IS IMPOSED] an environmental compliance fee of \$5
per berth, determined with reference to the number of lower berths, for [ON]
 each voyage during which the [COMMERCIAL PASSENGER] vessel operates
 [OPERATING] in the marine waters of the state. The department shall

(1) establish procedures for the collection of the fee;

(2) reduce the fee by \$1 per berth if the owner or operator of a
vessel

(A) installs and operates an electronic monitoring system
for wastewater discharges that has been approved by the department; and

(B) provides the appropriate monitoring data to the
department consistent with AS 46.03.465; and

(3) provide a rebate to each vessel after the vessel's last voyage of
the year, in an amount proportionate to the vessel's total number of unoccupied
berths that year, but only if the vessel provides information specified by and in a
format prescribed by the department to confirm the number of unoccupied
berths.

* **Sec. 10.** AS 46.03.480(b) is repealed and reenacted to read:

(b) Except as provided in (c) of this section and notwithstanding (a) of this section, for each voyage during which a small commercial passenger vessel operates in the marine waters of the state, the vessel is only subject to an environmental compliance fee of

(1) \$75 for a commercial passenger vessel with overnight accommodations for at least 50 but not more than 99 passengers for hire;

(2) \$175 for a commercial passenger vessel with overnight accommodations for at least 100 but not more than 249 passengers for hire.

* **Sec. 11.** AS 46.03.480(c) is repealed and reenacted to read:

(c) The commissioner of environmental conservation and the commissioner of transportation and public facilities shall jointly set a fee to be imposed on all commercial passenger vessels operated by the state in the marine waters of the state.

* **Sec. 12.** AS 46.03.482(c) is amended to read:

(c) The legislature may make appropriations from the fund to the department

1 [TO PAY] for the department's operational costs necessary to [PREPARE REPORTS
 2 THAT ASSESS THE INFORMATION RECEIVED BY THE DEPARTMENT FOR
 3 THE CRUISE SHIP SEASONS OF 2000, 2001, 2002, AND 2003 AND FOR THE
 4 DEPARTMENT'S OPERATIONAL COSTS NECESSARY TO] carry out activities
 5 under AS 46.03.460 - 46.03.490 relating to commercial passenger vessels and for the
 6 wastewater infrastructure grant fund administered by the department under
 7 AS 46.03.483.

8 * **Sec. 13.** AS 46.03 is amended by adding a new section to read:

9 **Sec. 46.03.483. Wastewater infrastructure grant fund.** (a) The wastewater
 10 infrastructure grant fund is established in the general fund and consists of money
 11 appropriated to the fund by the legislature, money appropriated to the fund in
 12 accordance with AS 46.03.482(c), and earnings on the fund. Appropriations from the
 13 commercial passenger vessel environmental compliance fund shall be deposited in a
 14 separate account within the fund. The department may establish in the fund the
 15 accounts it considers appropriate.

16 (b) Except as otherwise limited by law, money appropriated to the wastewater
 17 infrastructure grant fund and accounts in the fund may be expended by the department
 18 for wastewater infrastructure grants without further appropriation. Money in the fund
 19 does not lapse and remains available for expenditure in successive fiscal years.

20 (c) A municipality may submit an application for a wastewater infrastructure
 21 grant to be used to establish, upgrade, or improve a wastewater treatment collection
 22 system or facility in a port community that serves commercial passenger vessels. The
 23 application must provide evidence acceptable to the department that the

24 (1) proposed project is a capital improvement project and not part of a
 25 preventive maintenance program or regular custodial care program;

26 (2) municipality has secured and will maintain adequate property loss
 27 insurance for the replacement cost of the wastewater treatment system or facility or
 28 has an adequate program of insurance;

29 (3) municipality has a preventive maintenance plan for the wastewater
 30 treatment system or facility and will adequately adhere to the preventive maintenance
 31 plan after completion of the proposed project.

(d) Awards granted by the department from the separate commercial passenger vessel environmental compliance account shall be limited to the percentage of operations that the wastewater treatment collection system or facility expends servicing commercial passenger vessels.

(e) The department may award a wastewater infrastructure grant during a fiscal year for a proposed project eligible under this section based on a grant application filed during the immediately preceding fiscal year before February 1.

(f) The department shall establish priorities for the award of grants for proposed wastewater treatment systems or facilities under this section. The department shall award grants in the order of priority established. In establishing priorities, the department shall consider how the project will

(1) protect or improve public health;

(2) protect or improve water quality; and

(3) mitigate any environmental impact caused by commercial passenger vessels or passengers.

(g) Nothing in this section creates a dedicated fund.

*** Sec. 14.** AS 46.03.490(2) is amended to read:

(2) "commercial passenger vessel" means a vessel that carries passengers for hire except that "commercial passenger vessel" does not include a vessel

(A) authorized to carry fewer than 50 passengers;

(B) that does not provide overnight accommodations for at least 50 passengers for hire [, DETERMINED WITH REFERENCE TO THE NUMBER OF LOWER BERTHS]; or

(C) operated by the United States or a foreign government;

*** Sec. 15.** AS 46.03.490(13) is amended to read:

(13) "small commercial passenger vessel" means a commercial passenger vessel that provides overnight accommodations for 249 or fewer passengers for hire [, DETERMINED WITH REFERENCE TO THE NUMBER OF LOWER BERTHS];

*** Sec. 16.** AS 46.03.490 is amended by adding a new paragraph to read:

(19) "wastewater" means any graywater or sewage, including any graywater or sewage that is stored in or transferred to a ballast tank or other holding area on the vessel that may not be customarily used for storing graywater or sewage.

* **Sec. 17.** AS 46.03.460(b), 46.03.461, 46.03.462, 46.03.465(i), 46.03.480(d), 46.03.480(e), 46.03.481, 46.03.490(1), 46.03.490(7), 46.03.490(10), 46.03.490(14), and 46.03.490(15) are repealed.

* **Sec. 18.** AS 46.03.476 is repealed.

* **Sec. 19.** AS 46.03.480(b) is repealed December 31, 2023.

* **Sec. 20.** The uncodified law of the State of Alaska is amended by adding a new section to read:

TRANSITION: REGULATIONS. The Department of Environmental Conservation shall adopt regulations necessary to implement this Act. The regulations take effect under AS 44.62 (Administrative Procedure Act), but not before the effective date of the law implemented by the regulation.

* **Sec. 21.** The uncodified law of the State of Alaska is amended by adding a new section to read:

RETROACTIVITY. Section 18 of this Act is retroactive to April 1, 2020.

* **Sec. 22.** Sections 18, 20, and 21 of this Act take effect immediately under AS 01.10.070(c).

* **Sec. 23.** Except as provided in secs. 21 and 22 of this Act, this Act takes effect January 1, 2023.